

PRO SE GUIDE

APPEAL PROCEDURES

Basic information about filing a Petition for Review with the
Utah Supreme Court or the Utah Court of Appeals

The court's office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday except on official state and federal holidays.

Utah Supreme Court
Appellate Clerks' Office
450 South State, Fifth Floor
PO Box 140210
Salt Lake City, Utah 84114-0210
(801) 578-3900

Utah Court of Appeals
Appellate Clerks' Office
450 South State, Fifth Floor
PO Box 140230
Salt Lake City, Utah 84114-0230
(801) 578-3900

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What is a Petition for Review?

A petition for review is the review of a final decision or order of a governmental agency. ("agency" shall include agency, board, commission, committee or officer.) If you do not like the final decision from the agency and you think the agency made a legal mistake, you can file an appeal in the form of a petition for review. If you are appealing from a decision of the Utah State Tax Commission or the Public Service Commission you appeal to the Supreme Court. If you are appealing a decision of the Labor Commission, Workforce Services, Department of Employment Security, Industrial Commission or Career Service Review Board, you appeal to the Court of Appeals. If you are appealing from a decision of any other governmental agency, ask the Appellate Clerks' Office to tell you which appellate court has jurisdiction.

An appellate court does not retry the case, take new evidence, or weigh the credibility of witnesses. The appeal must be based on the record created in the agency. Generally, the appealing party must demonstrate that the agency made a legal mistake. If there was a legal mistake, it also has to have been important enough that it could have made a difference to the outcome of the case.

You may not file an appeal that is clearly frivolous, or just to harass someone. If the court decides you have done so, it can order you to pay a fine or to pay the legal fees of the party you filed the appeal against.

Representing Yourself

You can choose to represent yourself in the appeal. People who represent themselves in court are called "pro se" or "self-represented" litigants. Think carefully before deciding to represent yourself: the process takes time and patience and can be confusing. You will be expected to know and follow the same rules that attorneys do.

The court provides some resources, but court staff cannot give you legal advice. You will have to figure out most things on your own. Review and advice from an attorney is strongly recommended.

Keep in mind that as a pro se litigant, you can only represent yourself. The law prohibits you from speaking for another person, company, or entity such as a club or association that includes other individuals.

Utah Rules of Appellate Procedure

The Utah Rules of Appellate Procedure (also called Appellate Rules) explain the procedure in appeals cases. The Appellate Rules specify the deadlines for filing documents, spell out how documents must be formatted, and provide other important information. Be sure to read and follow these rules carefully.

The Appellate Rules are available on the court's website at www.utcourts.gov/resources/rules/. The Rules are also published in *Utah Court Rules Annotated*, which is available at the law libraries listed below and at some public libraries.

Utah State Law Library
450 S. State Street, Rm. W-13
Salt Lake City
801-238-7990
www.utcourts.gov/lawlibrary/

801-581-6438
www.law.utah.edu/sjqlibrary/

**University of Utah
S.J. Quinney Law Library**
332 South 1400 East
University of Utah Campus

**Brigham Young University
Howard W. Hunter Law
Library**
BYU Campus, Provo
801-422-3593
www.law2.byu.edu/Law_Library/

Fees

Petition for Review filing fee \$155.00 Payable to appellate court
(only applies to appeals from decisions of governmental agencies)

If you are seeking review of a decision issued by Workforce Services regarding unemployment benefits, there is no filing fee.

You can ask the court to waive the filing fee if you can show you meet certain financial/income guidelines. You must submit an Affidavit and Application for Waiver of Court Fees to make the request. The form is available on the court's website at www.utcourts.gov/resources/forms/ or you may obtain a copy at the Appellate Clerks' Office.

Even if a waiver is approved by the court, you will still have to pay other costs associated with your appeal. For example, you may have to pay for the preparation of transcripts. If you need copies of original documents in your case file, you must pay 25¢ per page.

Service

Service is delivering a copy of a document to the person (or entity) on the other side of your case. Appellate Rule 21 governs service, and says that service may be personal (hand-delivered) or by mail. In some situations you may also serve by fax – see the **Filing** section, below, for details.

You must serve **all** papers you file in the court on **all** other parties to the appeal.

A certificate of service must be attached to all papers filed with the court. The certificate of service tells the court when and how you served the other side, the names of those you served, and the addresses where they were served. **The court will not read your documents or act on your case until you have shown you served all parties.** A sample certificate of service is provided in the forms appendix.

Filing

To “file” a paper is to give it to the clerks' office to add to the case record. You can file papers with the court in person or by mail. You can also file by fax, subject to the following rules:

- Documents must be 10 pages or less.
Exception: Petitions for review **may not be filed by fax**, no matter how long they are.
- After you fax the document, you must also file the original document with the court within 5 business days of sending the fax. The court can treat the document as ineffective and untimely if it does not receive the original within that time.
- A fax filing is considered "received" when it is stamped by the clerks' office. A document can only be stamped during regular office hours (8:00 a.m. to 5:00 p.m., weekdays). A fax received after 5:00 p.m. will not be stamped as received until the next business day.
- At the same time you fax the document to the court, you must also send it by fax, hand-delivery or mail to all other parties to the appeal. Your fax to the court must include a certificate of service telling the court that you have served all the other parties, how you served them, and that the document was originally filed with the court by fax.

- The time for filing a response to a document filed by fax runs from the date the document was faxed to the court.
- If you fax your documents to the court, you assume the risk for any problems that may occur, such as the court's phone system being out of order, the court's fax machine running out of paper or being out of order. You may want to contact the court after faxing the document to make sure your fax arrived safely.

Appellate Clerks' Office Fax Number: 801-578-3999

Basic Appeals Procedures and Due Dates

There are important deadlines you have to follow in an appeal. If you miss a deadline, your case could be dismissed. Some important deadlines are explained below.

Notice Regarding Transcript (Required)

Within 10 days after filing the petition for review you must request from the agency copies of the recordings of any proceedings that have not been transcribed but which you think are necessary for the appeal. You must file a copy of the request with the appellate court within the same 10-day period. If no additional transcripts are to be prepared, you must file a certificate that no additional transcripts are requested with the agency within 10 days after the petition for review is filed, with a copy sent to the appellate court.

The transcript is a typewritten account of the proceeding you are appealing. The transcript is used to prepare the brief and to advise the appellate court as to what happened in the agency proceeding. You do not have to have a transcript for the appeal. Each agency has its own procedures regarding preparation and payment of transcripts. Refer to the agency regarding its policy. Generally, the requested transcript needs to be completed and filed with the agency by an official court transcriber. However, by written agreement of the parties and approval by the appellate court, a person other than an official court transcriber (for example, an agency employee) may transcribe a recorded hearing. You will be responsible to pay the costs of preparing any needed transcripts. Sample Request for Transcript and Certificate That No Transcript is Required forms are provided in the forms appendix.

Docketing Statement (Required)

You must file a docketing statement (original and two copies) with the court **within 21 days from the filing of the petition for review**. You must also serve copies of the docketing statement on the other side.

The docketing statement includes a summary of the facts and a brief description of the legal errors you think the agency made. The court uses the docketing statement to help it decide how to assign, transfer, calendar and prioritize the appeal. Appellate Rule 9 lists what must be included in the docketing statement. A sample Docketing Statement Outline is provided in the forms appendix.

Failure to file the docketing statement will result in dismissal of the appeal. See Appellate Rule 3(a).

Brief on Appeal (Important: Court will notify you if required.)

Briefs are the written arguments of parties stating the reasons why the appellate court should rule in their favor. Appellate Rules 24, 26 and 27 govern the form and content of briefs. Use the Checklist for Briefs in the forms appendix to help you meet all the requirements. Briefs may be rejected if they do not conform to the Appellate Rules.

Time for Filing and Service

Appellate Rule 26(a) governs filing and service.

The appellate court will tell you when your brief is due. The court will also send you a checklist for the brief which tells you what the brief should look like, what it should contain and how it should be prepared. You must file your brief on or before the date set by the court. You must also prepare a mailing certificate and mail the appropriate copies on or before that date.

The respondent must serve and file its brief **within 30 days after service of the petitioner's brief**.

You do not have to reply to the respondent's brief. If you do choose to file a reply brief, you must file and serve it **within 30 days after the filing and service of respondent's brief**. A reply brief can only be used to answer any new issues presented in the respondent's brief. It should not include material already stated in the opening brief.

Number of Copies

Appellate Rule 26(b) governs the number of copies of briefs that must be filed and served.

Supreme Court: **10 copies** of brief, one with an original signature

Court of Appeals: **8 copies** of brief, one with an original signature

You must also serve **two copies** on the opposing counsel.

The brief must include a certificate of service showing you have hand-delivered or mailed copies to the opposing counsel.

With some exceptions, briefs are public records. You can review briefs at the following locations:

Utah State Law Library

Official repository of appellate court briefs

Utah Supreme Court (1961-current)

Utah Court of Appeals (1987-current)

Utah State Archives

300 S. Rio Grande St.

Salt Lake City

801-533-3535

archives.utah.gov/

Supreme Court 1888–1961

BYU Howard W. Hunter Law Library

Not comprehensive

Supreme Court 1895-current

Court of Appeals 1986-current

University of Utah S.J. Quinney Law Library

Not comprehensive

Supreme Court 1895-current

Court of Appeals 1986-current

You can review briefs to see what briefs look like, but you must be sure to follow the requirements specified in the Appellate Rules. Remember that the arguments in a brief are specific to that appeal, and

may not apply to your situation. Briefs can also be used as a legal research tool. They contain legal arguments designed to persuade the court, analyze legal issues, and cite legal sources. If you have found decisions of the Utah Supreme Court or Utah Court of Appeals that are similar to your case, library staff can help you look up the briefs to see what those parties argued.

Enlargement of Time

In some situations you can ask the court for more time to meet a deadline. This is called a “motion for enlargement of time.”

A motion for enlargement of time must be filed before the deadline passes. Appellate Rule 22(b)(3).

A motion for enlargement of time must include:

- a good reason for extending the deadline
- whether you have asked for more time before, and if so, how many times and how long those extensions were
- when the deadline is
- what you would like the new deadline to be

Appellate Rule 22(b)(4).

Parties can agree to extend the deadline to file briefs. This agreement is called a “stipulation,” and must be filed with the court. A stipulation cannot extend the time by more than 30 days and will only be allowed if it is filed before the deadline expires. Appellate Rule 26(a).

The court does not favor requests to extend a deadline by more than 30 days. The court has the authority to extend any deadline except for filing the petition for review. Appellate Rule 22(b)(1)(2).

Court's Own Motion For Summary Disposition (Court of Appeals procedure only)

After the docketing statement is filed, the court may tell the parties that it is considering dismissing the appeal because it does not have jurisdiction or because there is no real issue being appealed.

The court will give the parties a chance to file a memorandum of ten pages or less explaining why the court should – or should not – dismiss the appeal. The court will tell the parties when the memorandum is due and how many copies must be filed with the court. Appellate Rule 10(b).

Petition For Rehearing

If you are unhappy with the decision of the appellate court in your appeal, you can ask the court to rehear your case by filing a petition for rehearing. The petition must be filed with the clerk **within 14 days after the court's decision is entered**, unless the court gives you a different deadline. Please be aware that the chances of having a petition for rehearing granted are not very good.

The petition shall include the points of law or fact you think the court has overlooked or misunderstood. A petition for rehearing must be made in good faith – not for delay. You do not get to present an oral argument about your petition. You may not reply to a petition for rehearing unless the court asks you to reply.

A petition for rehearing must have a tan cover; an answer must have a white cover. Appellate Rule 27. A petition for rehearing and any response requested by the court cannot be more than 15 pages long, unless the court gives permission for a longer document. Appellate Rule 35(b).

The court will not accept your petition for rehearing if you miss the deadline, or if you ask for more than one rehearing. Appellate Rule 35(d).

Petition for Review Time Line

Petition for Review	Due 30 days after final order of Agency (Or within the time prescribed by statute)
Transcript Request	Due 10 days after filing of Petition for Review
Docketing Statement	Due 21 days after filing of Petition for Review
Record/Record Index	Prepared by Agency
Petitioner's Brief	Due 40 days after the court gives notice that briefing is desired.
Respondent's Brief	Due 30 days after filing of petitioner's brief
Case at Issue, Ready to Calendar	
Petitioner's Reply Brief	Optional, due 30 days after filing of respondent's brief
Oral Argument	Optional, court will notify parties if it decides to schedule oral argument
Under Advisement	
Opinion Filed	
Petition for Rehearing	Optional, due 14 days after opinion is issued
Remittitur	As a general rule, issues 15 days after opinion filed in Supreme Court and 30 days after opinion filed in Court of Appeals

Appendix of Forms

Petition for Review

Certificate of Service for Petition for Review

Request for Transcript

Certificate that No Transcript is Required

Certificate of Service for Transcript

Motion for Extension of Time

Certificate of Service for Extension of Time

Docketing Statement Outline

Checklist for Briefs

Your Name _____
Address _____

Phone Number _____

IN THE UTAH [SUPREME COURT] [COURT OF APPEALS](circle one)

)	PETITION FOR REVIEW
)	
_____,)	
Petitioner,)	
)	
vs.)	
)	Appeal No. _____
_____,)	Agency Decision No. _____
(Agency) Respondent.)	

Notice is hereby given that _____ (your name), petitioner,
petitions the Utah [Supreme Court] [Court of Appeals](circle one) to review the
[order][decision](circle one) of the respondent made in this matter on _____ (date).

This petition seeks review of the entire [order] [decision](circle one).

OR

This petition seeks review of such part of the [order] [decision](Circle one) that states that

.

Petitioner requests the court to direct the respondent to prepare and certify to the
court its entire record, which shall include all of the proceedings and evidence taken in
this matter.

(signature)

CERTIFICATE OF SERVICE

I, _____ (your name) hereby certify that on _____ (date) I served a copy of the attached Petition for Review upon the party(ies) listed below by [mailing it by first class mail][personal delivery](Circle one) to the following address(es):

and a true and correct copy of the foregoing Petition for Review was [deposited in the United States mail] [hand delivered] (Circle one) to the agency listed below:

By: _____
Signature

Dated this _____.

Request for Transcript

Your Name: _____

Address : _____

Phone Number: _____

Case Name: _____

Appellate Court Case Number: _____

To: _____ (agency)

Please arrange for a transcript of the proceedings held in the above agency on _____ (transcript dates) to be prepared. The transcript is requested for purposes of an appeal.

Sincerely,

Signature

cc: Clerk of the [Supreme Court] [Court of Appeals](circle one)

(Opposing Party or Party's Attorney if represented)

CERTIFICATE THAT NO TRANSCRIPT IS REQUIRED

Your Name: _____

Address: _____

Phone Number: _____

IN THE _____ (agency)

_____,)	
Petitioner,)	CERTIFICATE THAT
)	TRANSCRIPT IS
vs.)	NOT REQUIRED
)	
_____,)	Agency No. _____
Respondent.)	Appellate Court No. _____

Petitioner _____ (your name), certifies to the court that no transcript will be requested in the above entitled case.

Signature

CERTIFICATE OF SERVICE

I, _____ (your name) hereby certify that on _____ (date) I served a copy of the attached Certificate that Transcript is Not Required upon the party(ies) listed below by [mailing it by first class mail][personal delivery](Circle one) to the following address(es):

By: _____
Signature

Dated this _____.

Your Name _____

Address _____

Phone Number _____

IN THE UTAH [SUPREME COURT] [COURT OF APPEALS]

(Circle one)

_____,
Petitioner,

v.

_____,
Respondent.

)
)
)
)
)
)
)

MOTION FOR EXTENSION OF TIME

Appellate Court No: _____

Petitioner requests that he/she be granted an extension of time of _____ (number of additional days requested) days to file the _____ (document name). The _____ (document name) was originally due on _____ (original due date). Petitioner cannot file the _____ (document name) by the due date because: _____

_____ (please state the reason why more time is needed).

Petitioner has not been granted a previous extension of time to file this document OR
Petitioner has been granted _____ (state how many) previous extensions of time to file this document.

Dated this _____.

(Signature)

CERTIFICATE OF SERVICE

I, _____ (your name) hereby certify that on _____ (date) I served a copy of the attached Motion for Extension of Time upon the party(ies) listed below by [mailing it by first class mail][personal delivery](Circle one) to the following address(es):

By: _____
Signature

Dated this _____.

SAMPLE FORM
DOCKETING STATEMENT OUTLINE

Petitioner's address
Petitioner's phone number

IN THE [NAME OF COURT]

Petitioner,

DOCKETING STATEMENT

vs.

Case No. [Appellate case number]

Respondent.

Agency No. [Agency case number]

PURSUANT TO RULE 9, Utah Rules of Appellate Procedure, petitioner submits this docketing statement.

1. Nature of the proceeding. This appeal is from a final [judgment] [order] [decree] of the [identify agency].
2. Jurisdiction. This Court has jurisdiction pursuant to [Utah Code Ann. §78A-3-102(3)()] [Utah Code Ann. §78A-4-103(2)()].
3. Relevant dates.
 - a. Date the final judgment or order appealed from was entered:
 - b. Date the petition for review was filed:

Parts 4,5 and 6 are not applicable to petition for review.

7. Issues on appeal. Petitioner intends to assert the following issue(s) on appeal:
 - a. Issue: [Succinctly state the first issue.]
Determinative law: [Cite any statutes, rules, or cases determinative of the first issue.]
Standard of review: [State applicable standard of appellate review for the first issue, with supporting authority.]
 - b. [Repeat for any additional issues.]
Determinative law: [Cite any statutes, rules, or cases determinative of the second issue.]
Standard of review: [State applicable standard of appellate review for the second issue, with supporting authority.]
8. Factual summary. [Succinctly summarize the facts necessary to understand the issue(s) presented.]
9. Assignment. This appeal [is] [is not] subject to transfer by the Supreme Court to the Court of Appeals pursuant to Utah [a. List one or more grounds].
10. Related appeals. [There are no related appeals.] [The following are related or prior appeals:
 - a. Give name, case number, and citation for each related appeal.]
11. Attachments. The following are attached:
 - a. The final judgment or order from which the appeal is taken.
 - b. Any rulings and/or findings of the administrative tribunal included in the judgment or order from which the appeal is taken.
 - c. Any application for rehearing filed pursuant to Utah Code Ann. § 54-7-15 (if the appeal arises from an order of the Public Service Commission) or notice of claim filed pursuant to Utah Code Ann. § 63-30-12 (if it arises from claims against the State or its employee acting within the scope of employment or under color of authority).

DATED:

[Signature of pro se party]

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Docketing Statement was mailed by first class mail this [date] to the following:

[Opposing counsel's name and address]

[Signature]

Form 8.**Checklist for Briefs - Rules 24, 26, and 27****Deadlines for Filing**

1. Petitioner: 40 days from notice by clerk.
2. Respondent: 30 days from petitioner's brief.
3. Reply: 30 days from respondent's brief.

Proof of Service

1. Upon counsel for all parties to the appeal.
2. Original signature required on proof of service.

Number of Copies

1. Supreme Court: Ten copies - one with original signature.
2. Court of Appeals: Eight copies - one with original signature.
3. Two copies served on counsel for each party separately represented.

Length

1. Petitioner and Respondent: 50 pages, excluding addendum.
2. Reply: 25 pages, excluding addendum.
3. Petition for Rehearing: 15 pages, excluding addendum.

Size and Binding

1. Size: 8 ½ " x 11".
2. Binding: Compact or Vello binding required; coiled plastic or spiral binding not acceptable.

Printing Requirements

1. Margins at least one inch on top, bottom and sides of each page.
2. Proportionally spaced typeface must be 13-point or larger for both text and footnotes. A monospaced typeface may not contain more than ten characters per inch for both text and footnotes.
3. Print on both sides of the page.
4. Double spaced; 1 ½ line spacing is not acceptable.

Cover Requirements

1. Heavy weight paper.
2. Color:
 Petitioner Blue
 Respondent Red
 Reply Gray
 Petition for Rehearing Tan
 Response to Pet'n for Rehearing White
3. Caption of the Case:
 a. full title of the case as it appeared in the agency;
 b. designation of the parties as they appear in the appellate court (e.g., "petitioner/respondent").
4. Name of the appellate court ("In the Utah Supreme Court") ("In the Utah Court of Appeals").
5. Appellate court docket number.
6. Title of the document (e.g., "Brief of the Petitioner").
7. Nature of the proceeding (e.g., "petition for review").

8. Name of the agency.
9. Petitioner's name and address on lower right; Opposing counsel and parties they represent on lower left.

Content Requirements of Petitioner's Brief- In the Order Stated

1. List of all parties unless the caption on the cover shows all parties.
2. Table of contents with page references.
3. Table of authorities with page references: (a) cases listed alphabetically with parallel citations; (b) rules; (c) statutes; (d) other authorities.
4. Statement showing jurisdiction of the appellate court.
5. Statement of the issues. For each issue state the standard of review and supporting authority.
6. Determinative constitutional provisions, statutes, ordinances, and rules set forth verbatim or by citation alone if they are set forth verbatim in the addendum.
7. Statement of the case:
 - a. nature of the case;
 - b. course of proceedings;
 - c. disposition at agency.
8. Relevant facts with citation to the record.
9. Summary of the argument.
10. Detail of the argument.
11. Conclusion containing a statement of the relief sought.
12. Original signature of petitioner on one copy of brief; reproduced signature on other copies.

Addendum

1. Attach at end of brief or file separately.
2. Not counted against total page number.
3. Contents:
 - a. Reproduction of findings of fact, conclusions of law, orders or decisions;
 - b. Reproduction of parts of the record of central importance such as contracts or other documents;
 - c. Reproduction of determinative constitutional provisions, statutes, or rules.